

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 330

SPONSOR: Finance and Taxation Committee, Comprehensive Planning Committee and Senators
Saunders and Argenziano

SUBJECT: Community Contribution Tax Credit

DATE: April 20, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	<u>Cibula</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	<u>Fournier</u>	<u>Johansen</u>	<u>FT</u>	<u>Fav/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute increases from \$10 million to \$15 million the total annual amount of tax credits that may be granted under the community contribution tax credit program, and increases, from 50 percent to 80 percent, the amount of available tax credits to be reserved for businesses that contribute to housing projects for low-income and very-low-income households.

This committee substitute substantially amends the following sections of the Florida Statutes: 212.08, 220.03, 220.183, and 624.5105.

II. Present Situation:

Community Contribution Tax Credit Program

Under the community contribution tax credit program, corporations, insurance companies, and persons who collect or remit sales or use taxes may be able to receive tax credits for making donations to certain low-income housing and community development projects.

Credits Available

Available tax credits under the program may be taken against sales or use taxes, corporate income taxes, and insurance premium taxes.¹ Tax credits are limited to 50 percent of the amount of a "community contribution" or donation to a maximum of \$200,000 annually per donor.² The total amount of community contribution tax credits available per year under the program is \$10

¹ Sections 212.08(5)(q), 220.183, and 624.5105, F.S.

² Sections 212.08(5)(q)1.a. and c., 220.183(1)(a) and (b), and 624.5105(1)(a) and (b), F.S.

million.³ Tax credits against sales or use taxes are granted as a refund against sales and use taxes reported on returns and remitted in the 12 months preceding the application to the Department of Revenue for a refund.⁴ Tax credits against corporate income taxes and insurance premium taxes are claimed against taxes due.⁵

Form of Contributions

Community contributions or donations must take the following forms: (1) cash or other liquid assets; (2) real property; (3) goods or inventory; or (4) other physical resources.⁶ For purposes of credits against insurance premium taxes and corporate income taxes, the Department of Revenue is authorized to identify “other physical resources” that qualify as a community contribution. For purposes of credits against sales or use taxes, the Office of Tourism, Trade, and Economic Development is authorized to identify “other physical resources.”

Use of Contributions

Community contributions must be used for projects to provide: low and very low-income housing; commercial, industrial, or public resources and facilities; entrepreneurial and job development opportunities for low-income persons; access to high speed broadband capability for rural enterprise zones; and educational programs and materials for the Florida Holocaust Museum in St. Petersburg.⁷

Project Location

Projects to provide low and very low-income housing may be located anywhere in the state.⁸ However, community development projects, such as projects to construct or rehabilitate commercial, industrial, or public facilities, must be located in an enterprise zone or Front Porch Florida Community.⁹ For purposes of credits against corporate income taxes, projects increasing access to high speed broadband capabilities may be located in any area of a rural county.¹⁰ For purposes of credits against sales or use taxes, a project that is designed to increase high speed broadband access to rural enterprise zones may be located anywhere.¹¹ For the purposes of credits against insurance premium taxes, however, a project that is designed to increase high speed broadband access to rural enterprise zones must be located in an enterprise zone or Front Porch Florida Community.¹²

Contribution Recipients

Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government,

³ Sections 212.08(5)(q)1.e., 220.183(1)(c), and 624.5105(1)(c), F.S.

⁴ Section 212.08(5)(q)1.b., F.S.

⁵ Sections 220.183(1)(a) and 624.5105(1)(a), F.S.

⁶ Sections 212.08(5)(q)2.a., 220.03(1)(d), and 624.5105(5)(a), F.S.

⁷ Sections 212.08(5)(q)2.b., 220.03(1)(t), and 624.5105(2)(b) and (5)(e), F.S.

⁸ Sections 212.08(5)(q)2.d., 220.183(2)(d), and 624.5105(2)(d), F.S.

⁹ *Id.*

¹⁰ Section 220.183(2)(d), F.S.

¹¹ Section 212.08(5)(q)2.d., F.S.

¹² Section 624.5105(2)(d), F.S.

and regional workforce boards.¹³ The Office of Tourism, Trade, and Economic Development maintains a list of approved sponsors.

Tax Credit Application Process

Applications to receive community contribution tax credits must be submitted to the Office of Tourism, Trade, and Economic Development. The application must set forth the terms of the application, such as the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. For the purposes of credits against corporate income taxes and sales or use taxes, the sponsor must verify in the application for tax credits that the community contribution has been received.¹⁴ For the purposes of credits against insurance premium taxes, the sponsor must state its willingness to receive the contribution in the application for tax credits.¹⁵ After approval for community contribution tax credits is received by an applicant, the applicant must also claim the credit from the Department of Revenue.¹⁶ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years.¹⁷ Unused credits against sales taxes may be carried forward for 3 years.¹⁸

Program History

The community contributions tax credit was created in 1980¹⁹ as a credit against the corporate income tax or insurance premium tax. From 1980 through 1994 it was capped at \$3 million per year. In 1994²⁰ the program's expiration date was extended from that year until 2005, and the cap was decreased to \$2 million. In 1998²¹ the Legislature increased the cap to \$5 million, and in 1999²² it was raised again to \$10 million. Legislation enacted in 2001²³ allowed the credit to be used against a dealer's sales and use tax liability.

Program Expiration

The statutes creating the community contribution tax credit program are scheduled to expire on June 30, 2005.

¹³ Sections 212.08(5)(q)2.c. and 220.183(2)(c), F.S.

¹⁴ Sections 212.08(5)(q)3.b. and 220.183(3)(b), F.S.

¹⁵ Section 624.5105(3)(b), F.S.

¹⁶ Section 212.08(5)(q)3.c., F.S., and Rules 12A-1.107(4), 12B-8.001(3), and 12C-1.0188(3), F.A.C.

¹⁷ Sections 220.183(1)(e) and 624.5105(1)(e), F.S.

¹⁸ Section 212.08(5)(q)1.b. and 5., F.S.

¹⁹ Ch. 80-249, L.O.F.

²⁰ Ch. 94-136, L.O.F.

²¹ Ch. 98-291, L.O.F.

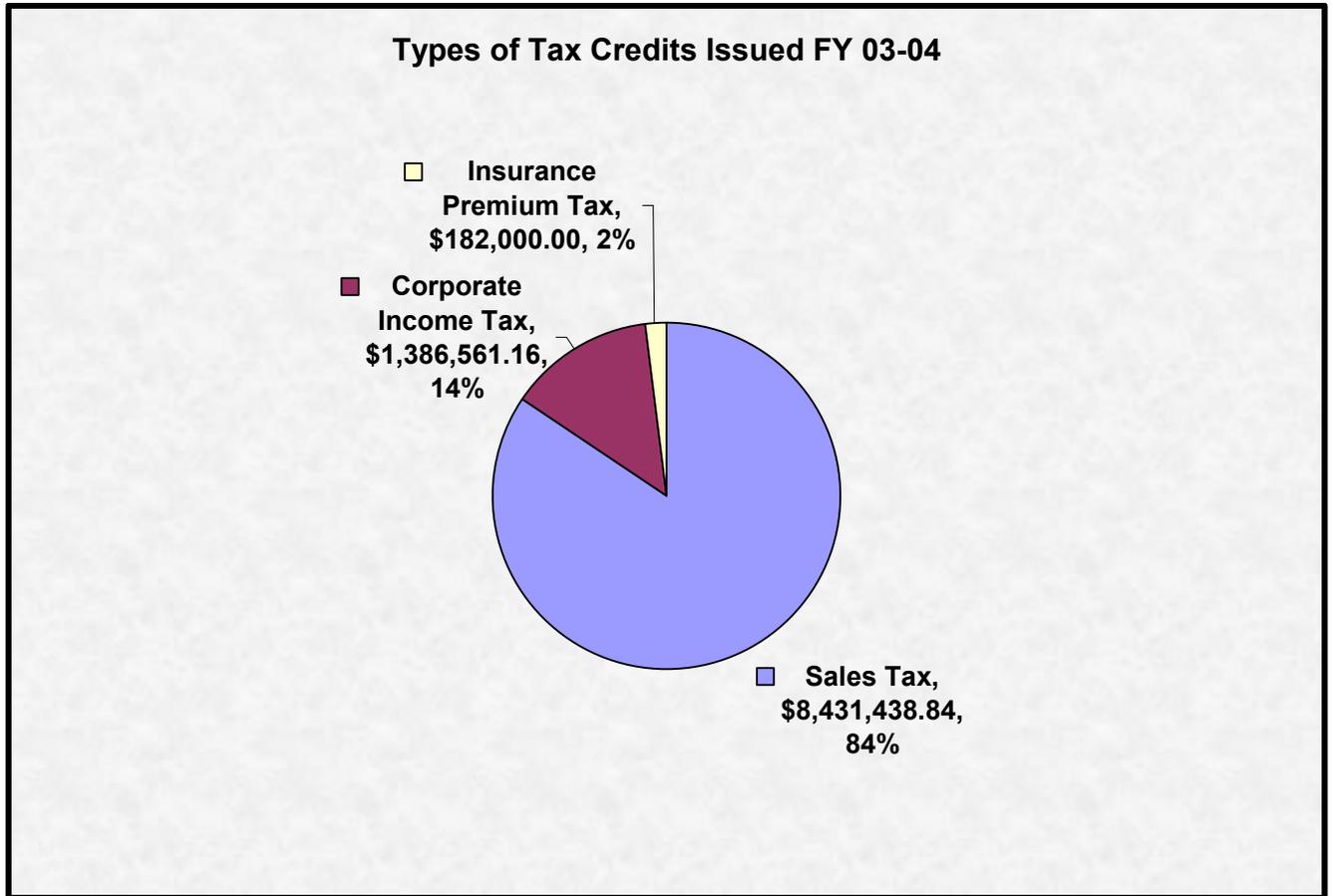
²² Ch. 99-265, L.O.F.

²³ Ch. 2001-201, L.O.F.

Program Statistics

Currently, most of the community contribution tax credits are used against sales taxes, as shown in Chart 1, below.

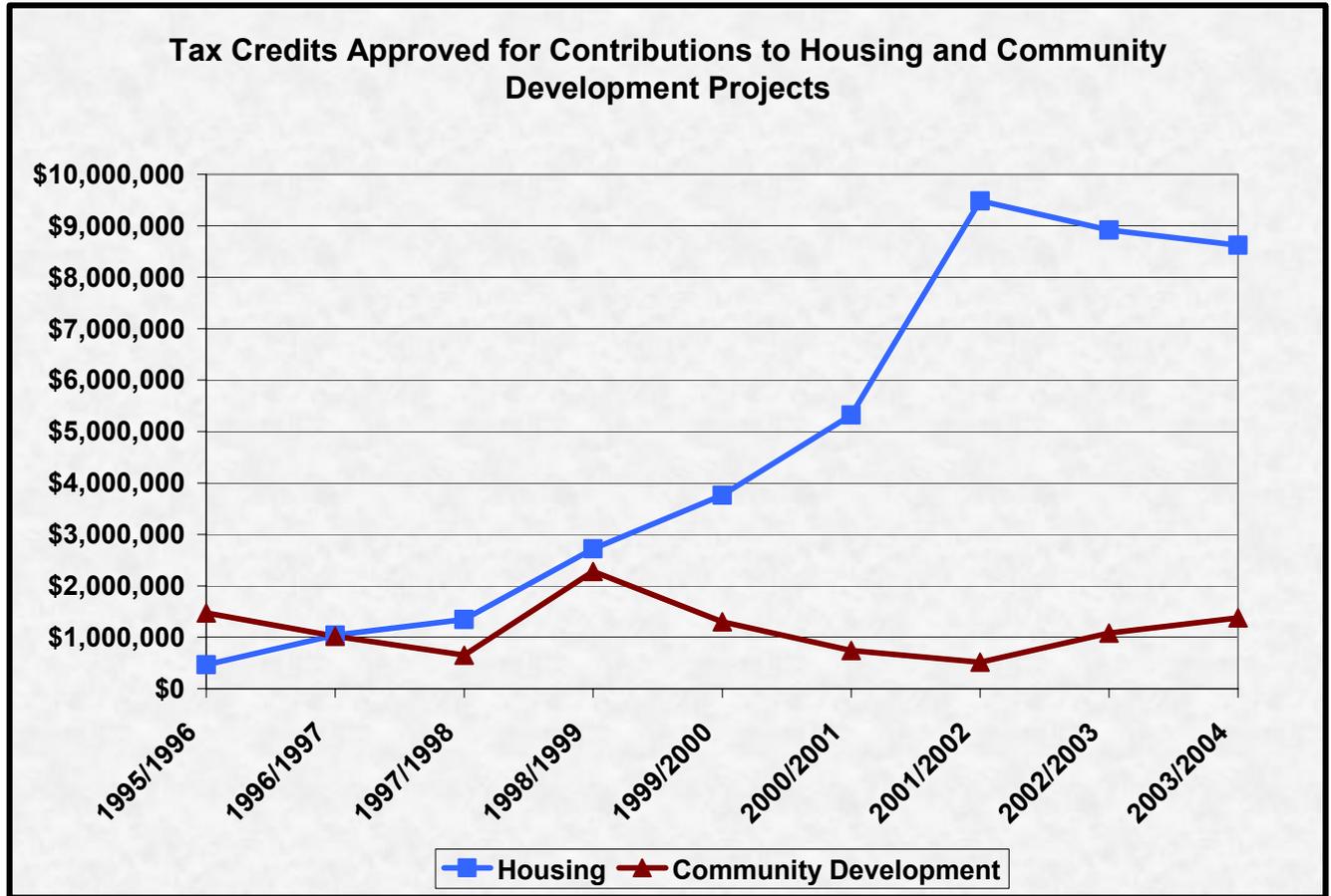
Chart 1



Source: Created from data provided by the Office of Tourism, Trade, and Economic Development

Historically, most community contribution tax credits have been made to low-income housing projects. See Chart 2.

Chart 2



Source: Created from data provided by the Office of Tourism, Trade, and Economic Development

III. Effect of Proposed Changes:

This committee substitute increases from \$10 million to \$15 million the total annual amount of tax credits that may be granted under the community contribution tax credit program, and increases, from 50 percent to 80 percent, the amount of available tax credits to be reserved for businesses that contribute to housing projects for low-income and very-low-income households.

Section 1 amends s. 212.08(5), F.S., which relates to the state sales tax, to increase from \$10 million to \$15 million the total annual amount of tax credits which may be granted under the combined community contribution tax credit program and to increase, from 50 percent to 80 percent, the amount of available tax credits to be reserved for businesses that contribute to housing projects for low-income and very-low-income households for the first two months of the

fiscal year. Thereafter, businesses contributing to qualified non-housing entities are entitled to apply for remaining credits.

OTTED is also required to reserve 20 percent of the available annual community contribution tax credits, for the first two months of the fiscal year, for businesses contributing to qualified entities other than those constructing or rehabilitating low and very-low-income housing. Thereafter, businesses contributing to qualified housing entities are entitled to apply for remaining credits.

This section also provides procedures for distributing available tax credits to eligible businesses.

These changes are consistent with the changes proposed in Sections 2, 4, and 4 of this CS .

Section 2 amends s. 220.03, F.S., to delete the requirement that OTTED reserve 50 percent of the available annual community contribution tax credits for businesses contributing to qualified entities constructing or rehabilitating low and very-low-income housing. This change is consistent with the changes proposed in Sections 1, 3, and 4 of this CS.

Section 3 amends s. 220.183, F.S., which relates to the corporate income tax, to increase from \$10 million to \$15 million the total annual amount of tax credits which may be granted under the combined community contribution tax credit program and to increase, from 50 percent to 80 percent, the amount of available tax credits to be reserved for businesses that contribute to housing projects for low-income and very-low-income households for the first two months of the fiscal year. Thereafter, businesses contributing to qualified non-housing entities are entitled to apply for remaining credits.

OTTED is also required to reserve 20 percent of the available annual community contribution tax credits, for the first two months of the fiscal year, for businesses contributing to qualified entities other than those constructing or rehabilitating low and very-low-income housing. Thereafter, businesses contributing to qualified housing entities are entitled to apply for remaining credits.

This section also provides procedures for distributing available tax credits to eligible businesses.

These changes are consistent with the changes proposed in Sections 1, 2, and 4 of this CS.

Section 4 amends s. 624.5105, F.S., which relates to the insurance premium income tax, to increase from \$10 million to \$15 million the total annual amount of tax credits which may be granted under the combined community contribution tax credit program and to increase, from 50 percent to 80 percent, the amount of available tax credits to be reserved for businesses that contribute to housing projects for low-income and very-low-income households for the first two months of the fiscal year. Thereafter, businesses contributing to qualified non-housing entities are entitled to apply for remaining credits.

OTTED is also required to reserve 20 percent of the available annual community contribution tax credits, for the first two months of the fiscal year, for businesses contributing to qualified entities other than those constructing or rehabilitating low and very-low-income housing. Thereafter, businesses contributing to qualified housing entities are entitled to apply for remaining credits.

This section also provides procedures for distributing available tax credits to eligible businesses.

These changes are consistent with the changes proposed in Sections 1, 2, and 3 of this CS.

Section 5 provides that this act shall take effect July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Based on the Revenue Impact Conference estimate of a similar bill (SB 1210), the impact of this CS will be a nonrecurring \$4.4 million negative fiscal impact on General Revenue, a non recurring \$600,000 negative fiscal impact on local revenues, and an insignificant nonrecurring negative impact on trust funds for FY 2004-05.

B. Private Sector Impact:

Tax credits under the community contribution tax credit program available to corporations, insurance companies, and persons who collect or remit sales or use taxes will be increased by \$5 million.

C. Government Sector Impact:

OTTED will be required to revise its processes to ensure that at least 80 percent of the available annual tax credits are allocated to projects that provide housing for low-income and very-low-income households.

VI. Technical Deficiencies:

None.

VII. Related Issues:

For ease of administration of the community contribution tax credit program, the Legislature ultimately may wish to eliminate inconsistent provisions in the three different chapters of the

statutes governing the program. See the “Present Situation” section of this staff analysis for examples of inconsistencies among the statutes creating the program.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
